

June 6, 2008

Mr. Chuck Shulock
California Air Resources Board
1001 "T" Street
Sacramento CA, 95814

***Re: Southern California Edison Company
Comments on Modified Regulation for the Mandatory
Reporting of Greenhouse Gas Emissions***

Dear Mr. Shulock:

Southern California Edison Company ("SCE") thanks the California Air Resources Board ("CARB") for this opportunity to provide comments on the May 15, 2008 modifications to the CARB's Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (the "Modified Regulation"). In general, SCE believes that the changes made in the Modified Regulation have added appropriate clarity to the reporting requirements. SCE comments on a few specific items where further clarification in the requirements is needed.

The CARB Should Modify The Definition Of "Operator" And Certain Other Provisions To Clarify The Reporting Requirements Of Retail Providers And Marketers

Certain sections and definitions in the Modified Regulation require revision in order to clarify the responsibility of retail providers and marketers for various aspects of reporting. In particular, the definition of "operator" in Section 95102(a)(139) should be modified to make clear that retail providers and marketers are only responsible for reporting as the "operator" of a facility when they have operational control of such facility. Additionally, Sections 95111(c), (d), and (f) should be revised to clarify the obligations of retail providers and marketers to report under those sections. The definition and sections in question state:

95102(a)(139) "Operator" means the entity having operational control of a facility, or other entity, from which an emissions data report is required under this article. For purposes of reporting electricity transactions as required in section 95111, "operator" means a retail provider, marketer, or facility operator.

95111(c) *Calculation of CO₂ Emissions from Stationary Combustion*. Operators of generating facilities, retail providers, and marketers shall meet the following requirements in

preparing CO₂ emission calculations from stationary combustion for inclusion in the greenhouse gas emissions data report.

95111(d) ***Calculation of N₂O and CH₄ from Stationary Combustion.*** Operators of generating facilities, retail providers, and marketers shall use the methodologies provided in section 95125(b) to calculate and include N₂O and CH₄ emissions from stationary combustion.

95111(f) ***Determining Fugitive SF₆ Emissions.*** Operators of generating facilities, retail providers, and marketers shall use the methodology provided by the U.S. EPA SF₆ Emission Reduction Partnership for Electric Power Systems to determine fugitive SF₆ emissions as specified in Appendix A. The operator shall convert pounds of SF₆ into kilograms.

Section 95111 of the Modified Regulation sets forth the reporting obligations for electricity generating facilities, retail providers, and marketers. Section 95111(a) details the reporting obligations of “operators” of electric generating facilities with respect to the facilities they operate. Under the first sentence of the definition of “operator,” an “operator” of an electricity generating facility is the “entity having operational control” of the facility.¹ This would be the facility operator. In a situation where a retail provider or marketer is the facility operator (i.e., the entity having operational control) of an electricity generating facility, the retail provider or marketer is the “operator” of the facility under the first sentence of the definition of “operator,” and is required to report the information provided in Section 95111(a) with respect to such facility.

Section 95111(b) of the Modified Regulation sets forth the reporting requirements of retail providers and marketers. Retail providers and marketers have the obligation to report certain information regardless of whether they are the “operators” of any electricity generating facilities. However, as stated above, Section 95111(b)(3)(A) explicitly confirms that a retail provider is also required to report under Section 95111(a) as the “operator” of an electricity generating facility “for each generating facility over which the retail provider has operational control.”

The second sentence of the definition of “operator” provides that “[f]or purposes of reporting electricity transactions as required in section 95111, ‘operator’ means a retail provider, marketer, or facility operator.”² This sentence is redundant and potentially confusing. Retail providers, marketers, and facility operators are already required to report as “operators” of electricity generating facilities under Section 95111 if they have operational control of such facilities under the first sentence of the definition. The second sentence of the definition is thus unnecessary. Moreover, the second sentence can be read as defining retail providers and marketers as “operators” for all purposes under Section 95111. This would require retail providers and marketers to report as “operators” under Section 95111(a) for electricity generating facilities which they do not own, operate, or have any operational control over. SCE does not believe this was the CARB’s intent.

¹ Modified Regulation § 95102(a)(139).

² *Id.*

Because the second sentence in the definition of “operator” is redundant and because it introduces uncertainty regarding the reporting obligations of retail providers and marketers, it should be deleted as shown below.

95102(a)(139) “Operator” means the entity having operational control of a facility, or other entity, from which an emissions data report is required under this article. ~~For purposes of reporting electricity transactions as required in section 95111, “operator” means a retail provider, marketer, or facility operator.~~

Furthermore, based upon SCE’s involvement in the development of CARB’s reporting rules, it is SCE’s understanding that a retail provider would only be required to calculate and report CO₂, N₂O, CH₄, and SF₆ emissions if the retail provider operates the facility that is the cause of such emissions.³ However, Sections 95111(c), (d), and (f), could be construed to apply to any retail provider or marketer regardless of whether they own or physically operate the facility that is the cause of the emissions. This creates confusion for certain retail providers who serve their load through a combination of owned resources and contracts with facilities operated by other entities. As shown below, the Modified Regulation should be revised to clarify the obligations of retail providers and marketers.

95111(c) *Calculation of CO₂ Emissions from Stationary Combustion.* Operators of generating facilities, retail providers (to the extent that the retail provider operates generating facilities), and marketers (to the extent that the marketer operates generating facilities) shall meet the following requirements in preparing CO₂ emission calculations from stationary combustion for inclusion in the greenhouse gas emissions data report.

95111(d) *Calculation of N₂O and CH₄ from Stationary Combustion.* Operators of generating facilities, retail providers (to the extent that the retail provider operates generating facilities), and marketers (to the extent that the marketer operates generating facilities) shall use the methodologies provided in section 95125(b) to calculate and include N₂O and CH₄ emissions from stationary combustion.

95111(f) *Determining Fugitive SF₆ Emissions.* Operators of generating facilities, retail providers (to the extent that the retail provider operates generating facilities and pursuant to section 95111(b)(2)(A)), and marketers (to the extent that the marketer operates generating facilities and pursuant to section 95111(b)(2)(A)) shall use the methodology provided by the U.S. EPA SF₆ Emission Reduction Partnership for Electric Power Systems to determine fugitive SF₆ emissions as specified in Appendix A. The operator shall convert pounds of SF₆ into kilograms.

³ Retail providers and marketers are also required to report fugitive emissions of SF₆ related to transmission and distribution systems, substations, and circuit breakers located inside California that the retail provider or marketer is responsible to maintain in proper working order under Section 95111(b)(2)(A).

The CARB Should Clarify The Modified Regulation's Reporting Requirements Regarding "Mobile Combustion Sources"

SCE also requests that the CARB clarify the reporting requirements with respect to "mobile combustion sources." The definition of a "mobile combustion source" in the Modified Regulation includes a wide variety of on-road and off-road non-stationary sources such as passenger cars, large/heavy duty truck cabs and chassis, light and medium duty trucks and vans, mobile cranes, bulldozers, ships, and airplanes.⁴ The Modified Regulation provides for voluntary reporting of emissions from these mobile combustion sources.⁵ It states that "[f]or those gases selected for voluntary reporting" (i.e., CO₂, N₂O, and CH₄), "the operator shall calculate mobile combustion emissions using their specified methods in section 95125(i)."⁶

CARB's method for calculating N₂O and CH₄ emissions from mobile combustion sources in Section 95125(i)(3) calls for the use of mileage by vehicle type. For certain mobile sources (e.g., cranes, bulldozers, and helicopters), however, mileage data is not generally recorded by the vehicle. In addition, Table 8 of Appendix A, which provides the emission factors to be used in the methodology to calculate N₂O and CH₄ from mobile combustion sources, only includes a list of on-road vehicles. Therefore, the methodology in Section 95125(i)(3) does not allow for the calculation of N₂O and CH₄ emissions from off-road vehicles. Moreover, the alternative methodology in Section 95125(i)(3)(A) for calculating N₂O and CH₄ emissions when miles traveled data is not available also does not work for off-road vehicles like cranes, bulldozers, and helicopters because the U.S. EPA fuel economy values for city driving and highway driving do not apply to such vehicles.

If it is CARB's intent that reporting entities calculate only the CO₂ emissions from off-road vehicles, then this intent should be made explicit in Sections 95103(a)(4) and 95125(i)(3). If CARB's intent is for reporting entities to include N₂O and CH₄ emissions from off-road vehicles, then a calculation methodology should be established in section 95125(i)(3) and Appendix A for such vehicles.

The CARB Must Protect Confidential Information

The CARB must ensure that its reporting regulations adequately protect confidential and commercially sensitive information. Section 95106(a) of the Modified Regulation states that "[e]missions data submitted to the ARB under this article is public information and shall not be designated as confidential." Section 95106(b) provides that "[a]ny entity submitting information to the ARB pursuant to this article may designate such information that is not emissions data as confidential because it is a trade secret or otherwise exempt from public disclosure under the California Public Records Act (Government Code section 6250 et seq.). All such requests for

⁴ Modified Regulation § 95102(a)(118),

⁵ *Id.* § 95103(a)(4).

⁶ *Id.*

confidentiality shall be handled in accordance with the procedures specified in title 17, California Code of Regulations, sections 91000 to 91022.” (Emphasis added.)

SCE is concerned that it may be possible to impute transaction information based on resource-specific or default emission factors if reporting entities are required to report such imputed emissions for all transactions. Reporting entities should have the ability to submit any information to CARB on a confidential basis if such information is likely to reveal commercially sensitive information (e.g., how much power was imported/bought and from which source/counterparty). The CARB should not prejudge what confidential information may be protected as a trade secret or otherwise protected from public disclosure. Additionally, any publication by or on behalf of CARB of total emissions from a retail provider must be summarized and aggregated at a level sufficient to make the identification of individual transactions impossible in order to protect the retail provider’s confidential and commercially sensitive information.

The CARB Should Revisit Its Modified Regulation After The State Selects A Point Of Regulation For The Electricity Sector

The Modified Regulation adds certain new provisions consistent with reporting under the deliverer point of regulation recommended by the California Public Utilities Commission (“CPUC”) and the California Energy Commission (“CEC”) for the electricity sector.¹ However, the Modified Regulation continues to include duplicative reporting of the same emissions from generating facilities, marketers, and retail providers. For example, Section 95111(b)(2)(D) states that “[r]etail providers shall include wholesale power imported from specified and unspecified sources with final point of delivery in California for which the retail provider is not the deliverer to the first point of delivery in California, designating the region of origin. Transactions reported under this section 95111(b)(2)(D) shall not be duplicated under section 95111(b)(3)(F).” Emissions data for imports from specified and unspecified sources for which the retail provider is not the deliverer will result in redundant reporting from other deliverers. If the deliverer point of regulation recommended by the CPUC and CEC is adopted by CARB, this and other duplicative reporting requirements should be eliminated.

SCE respectfully requests that the CARB revise its Modified Regulation to address SCE’s comments stated above. If you have any questions, please feel free to contact me.

Very truly yours,



Dhaval P. Dagli

¹ See, e.g., *id.* §§ 95111(b)(2)(B)-(C).